IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

ITR No.18 of 1997
Date of decision:14.11.2006

M/s. Vardhman Oil Extraction and Chemicals Private Limited, Amritsar

....Petitioner

versus

The Commissioner of Income Tax, Amritsar

....Respondent

CORAM: HON'BLE MR. JUSTICE ADARSH KUMAR GOEL
HON'BLE MR. JUSTICE RAJESH BINDAL

Present: Dr. N.L.Sharda, Advocate, for the revenue.

JUDGMENT:

Following questions of law have been referred for the opinion of this Court by the Income Tax Appellate Tribunal, Amritsar Bench, Amritsar, (for short, 'the Tribunal') arising out of its order dated 27.8.1992 in ITA No.210(ASR)/1988, for the assessment year 1983-84:-

> "i) Whether, on the facts and in the circumstances of the case, the Appellate Tribunal was right in law in holding that the amount of subsidy of Rs.7,25,570/- was to be adjusted from the cost of machinery and building etc. while calculating depreciation?
>
> ii) Whether the appellate Tribunal has been right in law in holding that for arriving at the actual cost of machinery and building etc. for the purpose of depreciation the subsidy amount of Rs.7,25,570/- receivable from the Government of Punjab for establishing an industry in a backward area is to be deducted from the cost of such machinery and building etc.?"

The Tribunal following the judgment of this Court in **CIT v. Jindal Bros. Rice Mills,** (1989) 179 ITR 470, decided the issue giving rise to the above questions, against the assessee. It is not disputed that the view

taken by this Court in **Jindal Bros's** case (supra) has since been over-ruled by the Hon'ble Supreme Court in **CIT v. P.J.Chemicals Limited,** (1994) 210 ITR 830 and it has been held that amount of subsidy is not to be reduced from the cost of machinery and building for calculating depreciation.

Accordingly, the questions referred are answered in favour of the assessee and against the revenue.

Reference is disposed of accordingly.

(Adarsh Kumar Goel)
Judge

November 14, 2006
'gs'

(Rajesh Bindal)
Judge